

AMENDED IN ASSEMBLY APRIL 17, 2006
AMENDED IN ASSEMBLY MARCH 9, 2006
AMENDED IN ASSEMBLY FEBRUARY 16, 2006
AMENDED IN SENATE AUGUST 30, 2005
AMENDED IN SENATE AUGUST 17, 2005
AMENDED IN SENATE AUGUST 15, 2005
AMENDED IN SENATE JULY 1, 2005

SENATE BILL

No. 1015

Introduced by Senator Murray

February 22, 2005

An act to amend Section 2024.6 of the Family Code, relating to dissolution of marriage, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1015, as amended, Murray. Dissolution of marriage: financial declarations.

Existing law permits a party to request that documents listing or identifying the parties' assets and liabilities be sealed in specified family law proceedings, including dissolution of marriage.

This bill would revise those provisions to include documents listing or identifying the parties' income or expenses, permit *specified portions* of those records to be redacted, *subject to a finding by the court*, and make related changes. The bill would require the Judicial Council to adopt rules governing procedures for redacting and restoring those records. *This bill would make legislative findings and*

declarations relating to dissolution of marriage and financial information.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) The fundamental right of privacy protects against
3 unwarranted intrusion into private financial affairs, including
4 those affairs disclosed in a dissolution of marriage, nullity of
5 marriage, or legal separation proceeding.

6 (b) The law of this state requires any party to a proceeding for
7 dissolution of marriage, nullity of marriage, or legal separation to
8 disclose fully in documents that are filed with the court hearing
9 that proceeding, thereby becoming a matter of public record,
10 detailed and sensitive financial information, including the nature,
11 extent, and location of the party's assets, liabilities, income or
12 expenses, and information, such as social security numbers and
13 bank account numbers, that can be used to identify and locate the
14 party's assets, liabilities, income or expenses.

15 (c) The sensitive financial information that the law compels a
16 party to a proceeding for dissolution of marriage, nullity of
17 marriage, or legal separation to disclose into the public record is
18 subject to use for improper purposes, particularly including but
19 not limited to, the burgeoning crime of identity theft.

20 (d) Much of existing law concerning the redaction and sealing
21 of court records was enacted or otherwise promulgated prior to
22 the current epidemic of identity theft and the widespread use of
23 electronic databases, containing sensitive financial and other
24 personal information, which data is vulnerable to misuse.
25 Recently enacted federal legislation protects and guards against
26 the misuse of personal information, including the risk of child
27 abduction, stalking, kidnapping, and harassment by third parties.
28 Existing state law is inadequate to protect these widespread
29 privacy concerns.

1 (e) Local court rules regarding the disclosure of sensitive
2 financial information vary from county to county. This act is
3 intended to provide uniformity with respect thereto.

4 (f) For these reasons, the Legislature finds that existing law
5 concerning the redaction and sealing of court records does not
6 adequately protect the right of privacy in financial and marital
7 matters to which parties to a proceeding for dissolution of
8 marriage, nullity of marriage, or legal separation are entitled. It is
9 the intent of the Legislature to protect more fully their right of
10 privacy while acknowledging and balancing the public's right of
11 access to public records and judicial proceedings. Accordingly,
12 in proceedings for dissolution of marriage, nullity of marriage, or
13 legal separation, the Legislature finds that unnecessary public
14 disclosure of financial assets, liabilities, income, expenses and
15 residential addresses raises a substantial probability of prejudice
16 to a financial privacy interest that overrides the public's right of
17 access to court records. The Legislature further finds that the
18 redaction of documents containing the above information is the
19 least restrictive means of protecting the financial privacy interest
20 of the parties while recognizing the public's right of access to
21 court records.

22 SEC. 2. Section 2024.6 of the Family Code is amended to
23 read:

24 2024.6. (a) Notwithstanding any other provision of law, upon
25 request by a party to a proceeding for dissolution of marriage,
26 nullity of marriage, or legal separation, the court shall order
27 redacted ~~any the specified~~ portion of a pleading *filed with the*
28 *court* that lists the parties' financial assets, liabilities, income, or
29 expenses, or provides the location of, including a residential
30 address, or identifying information about, those assets, ~~liabilities,~~
31 ~~income, or expenses.~~ Subject to the direction of the court, no
32 more of any pleading shall be redacted than is necessary to
33 protect the parties' overriding right to privacy. The request may
34 be made by ex parte application. Nothing redacted pursuant to
35 this section may be restored except upon petition to the court and
36 a showing of good cause. *liabilities, income, or expenses, if the*
37 *court expressly finds facts that establish all of the following:*

38 (1) *There exists an overriding interest that overcomes the*
39 *public's right of access to public records.*

1 (2) *The overriding interest supports redaction of the pleading*
2 *or portion of a pleading.*

3 (3) *A substantial probability exists that the overriding interest*
4 *will be prejudiced if the pleading is not redacted.*

5 (4) *The proposed redaction is narrowly tailored.*

6 (5) *No less restrictive means exist to achieve the overriding*
7 *interest.*

8 (b) *In making the determination described in subdivision (a),*
9 *the court shall balance a particularized showing of the public*
10 *interest in open access to judicial proceedings against the*
11 *asserted privacy rights of spouses, children, and other interested*
12 *parties.*

13 (c) *Subject to the direction of the court, no more of any*
14 *pleading shall be redacted than is necessary to protect the*
15 *parties' overriding right to privacy. The request under this*
16 *section shall be made by noticed motion. Nothing redacted*
17 *pursuant to this section may be restored except upon petition to*
18 *the court and a showing of good cause.*

19 ~~(b)~~

20 (d) Commencing not later than July 1, 2007, the Judicial
21 Council form used to declare assets and liabilities and income
22 and expenses of the parties in a proceeding for dissolution of
23 marriage, nullity of marriage, or legal separation of the parties
24 shall require the party filing the form to state whether the
25 declaration contains identifying information on the assets,
26 liabilities, income, or expenses listed therein. If the party making
27 the request pursuant to subdivision (a) uses a pleading other than
28 the Judicial Council form, the pleading shall exhibit a notice on
29 the front page, in bold capital letters, that the pleading lists or
30 identifies financial information and is therefore subject to this
31 section. By the same date, the Judicial Council shall also adopt
32 rules setting forth the procedures to be used for redacting and
33 restoring pleadings pursuant to this section.

34 ~~(e)~~

35 (e) For purposes of this section, “pleading” means a document
36 *filed with the court* that sets forth or declares the assets,
37 liabilities, income, or expenses of one or both of the parties,
38 including, but not limited to, a marital settlement agreement
39 exhibit, schedule, transcript, or any document incidental to a

1 declaration or marital settlement agreement that lists or identifies
2 financial information.

3 ~~(d) For purposes of this section and notwithstanding any other~~
4 ~~provision of law, a privately compensated temporary judge may~~
5 ~~order pleadings redacted pursuant to the provisions of this~~
6 ~~section.~~

7 ~~(e)~~

8 (f) The party requesting redaction of a pleading pursuant to
9 subdivision (a) shall serve a copy of the unredacted pleading, a
10 proposed redacted pleading and the request for redaction on the
11 other party or parties to the proceeding and file the proof of
12 service with the request for redaction with the court.

13 ~~(f)~~

14 (g) Nothing in this section precludes a party to a proceeding
15 described in this section from using any document or information
16 contained in a pleading redacted pursuant to this section in any
17 manner that is not otherwise prohibited by law.

18 ~~(g)~~

19 (h) Nothing in this section precludes a law enforcement or
20 government regulatory agency that is otherwise authorized to
21 access public records from accessing unredacted pleadings.

22 *SEC. 3. This act is an urgency statute necessary for the*
23 *immediate preservation of the public peace, health, or safety*
24 *within the meaning of Article IV of the Constitution and shall go*
25 *into immediate effect. The facts constituting the necessity are:*

26 *Because of the imminent threat of identity theft posed by*
27 *current law and to protect the right of privacy guaranteed by the*
28 *federal and state constitutions, with respect to dissolution*
29 *proceedings, it is necessary that this act take effect immediately.*